7ᵀᴴ HUMAN RESOURCE CONFERENCE

KAHC & KUDHEIHA HUMAN RESOURCE CONFERENCE

THEME:

"EMPOWERING EXCELLENCE: TRANSFORMING THE HUMAN RESOURCE PRACTICE IN THE HOSPITALITY INDUSTRY"

MNARANI BEACH CLUB, KILIFI

19 – 20 SEPTEMBER 2024

7ᵗʰ HUMAN RESOURCE
CONFERENCE

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List of Acronyms & Abbreviations

AI   Artificial Intelligence

CPD   Continuous Professional Development

HR   Human Resource

ILO   International Labour Organization

KAHC   Kenya Association of Hotel Keepers and Caterers

KUDHEIHA   Kenya Union of Domestic, Hotels, Education institutions & Hospitals

RBA   Retirement benefits Authority

Welcome Remarks

Mike Macharia
KAHC CEO

Mr Macharia expressed his enthusiasm about the 7th HR Conference, noting its remarkable growth in size and the level of engagement compared to previous years. He warmly welcomed all KAHC members and colleagues from KUDHEIHA, highlighting the participation of 80 confirmed attendees. According to him, this growth is a clear indication that the conference is gaining significant traction, positioning itself as an essential platform for addressing HR-related matters within the hospitality sector. He encouraged active participation from all attendees, emphasizing the importance of their contributions to the event's success.

Keynote Address

Maureen Awour
Chairperson, KAHC, Malindi and Watamu Region

In her remarks, *Maureen Awour* emphasised the importance of taking full advantage of opportunities like the KAHC HR conference. She urged attendees to focus and participate actively, free from distractions like phones or laptops, in order to truly benefit from the event.

She spoke on the following critical issues in the hospitality industry and the importance of,

1. *Concentration and Productivity:* She stressed the need for HR managers to monitor how much time staff spend on their phones, engaging in personal activities during work hours, and how that affects productivity.

2. The Gen Z Challenge: Gen Z employees are frequently on their phones. She raised concerns about managing this behaviour in the workplace and the challenge of monitoring their activities, especially when data protection regulations come into play.

3. *Data Protection and Employee Exit:* She pointed out that data protection is a new but vital issue in Kenya, particularly in the hospitality industry. She stressed the need for the hotels to be aware of how an employee's personal information is handled once they leave or exit employment.

4. *Technology and Artificial Intelligence (AI):* She stressed on the increasing use of AI in the service industry and how HR managers should prepare for the impact of automation on service delivery.

5. *Outsourcing:* Hotels are increasingly outsourcing functions across various departments. To maximize benefits, she stressed on the need for hotels to implement effective management strategies that ensure outsourcing is both efficient and profitable.

6. *Mental Health and Wellness:* She highlighted the importance of mental health, especially for managers at the top who often lack someone to confide in. She urged HR managers to be approachable and act as therapists for employees.

7. *Building Relationships with Staff:* She encouraged HR practitioners to know their staff personally and understand their backgrounds so that they can be better placed to support them.

Maureen Awour then declared the 7th KAHC & KUDHEIHA Conference officially opened. .

Managing Millennials and Gen Zs in the Workplace

Jeff Mukolwe,
General Manager, Baobab Beach Resort

Focus of the presentation: Understanding Gen Z and Millennials and their role in the hospitality industry

Background: Generation Z (Gen Z) represents a dynamic, tech-savvy group entering the workforce with unique values and expectations. In the hospitality sector, they play a dual role as both employees and customers. Their desire for creativity, flexibility, and social responsibility reshapes how the industry operates and how it should engage them.

Below are the fundamental realities the hospitality industry faces regarding the GenZ generation:

- There's a significant disconnect between the expectations of Gen Z and the opportunities currently offered in the hospitality industry. This generation feels left behind because their specific needs and aspirations are unmet.

- A concerning trend was observed where a large portion of Gen Z are hesitant or outright unwilling to enter the hospitality industry. This points to a deeper issue of alignment between industry practices and the values of this generation.

Key outcomes from the presentation:

3.1 Characteristics of a Gen Z:

Gen Z's:

- Understanding of terms and concepts often differs from traditional perspectives.

- Are highly connected, have access to vast amounts of information, and are aware of global trends.

- Enter the workforce with a firm grasp of personal branding and social media.

- Bring a sense of overconfidence to the workplace but need mentorship and guidance from older generations.

- Are multitaskers; they value flexibility, fun, and variety, avoiding traditional long-term career paths.

- Often takes on multiple jobs and does not rely solely on one employer. They prioritise earning money over traditional employment structures like pensions or joining Unions.

- They create their own culture, rejecting organisational norms and cultural and religious impositions. Gen Z's values differ significantly from those of previous generations, including their attitudes toward work attire and workplace culture.

- Prefer digital communication, including direct and transparent conversations, and are found more on digital platforms than traditional media like newspapers.

- Demand clearly defined work-life balance and are likely to leave jobs if they feel this balance is not supported.
- Although Gen Z projects self-confidence, they often lack essential human interaction skills like empathy.

The values held by Gen Z contrast with those of previous generations, raising the question of how to align or understand these differing "truths."

3.2 Generational Gap in the Hospitality Sector:

- There's a significant disconnect between the expectations of Gen Z and the opportunities currently offered in the hospitality industry. This generation feels left behind as their specific needs and aspirations are not being met.
- A concerning trend has been observed where a large portion of Gen Z is hesitant or outright unwilling to enter the hospitality industry. This points to a deeper issue of alignment between industry practices and the values of this generation.

3.3 Challenges Identified:

- There is a lack of effort from current industry leaders to deeply understand Gen Z's motivations, values, and career aspirations.
- The industry is currently not structured to attract and retain young talent from this generation, who are keenly aware of their rights and are not afraid to switch jobs if their expectations are unmet.

3.4 Strategic Questions Raised:

- *What proactive measures can the hospitality industry implement to become more appealing to Gen Z?*
- *How can we better understand and integrate the unique traits of Gen Z into our workforce management strategies?*
- *What is the hospitality industry doing to adapt to this new generation?* The hospitality industry must be prepared for the "Gen Z revolution" seen across other sectors. This includes understanding their distinct approach to work, rights, and personal values.

3.5 Recommendations for HR Practices:

- *Generational Awareness:* Managers and HR teams must develop a thorough understanding of the differences among generations—Traditionalists, Baby Boomers, Gen X, Millennials, and Gen Z. Acknowledging these differences is crucial for effective management and creating a workplace that appeals to all age groups.
- *Inclusion of Gen Z:* HR practitioners must foster an environment within the hospitality industry that values generational diversity, ensuring a mix of ages that facilitates the transfer of institutional knowledge and innovative ideas.
- *Adapting Recruitment and Retention Strategies:* HR practitioners should tailor their approaches to resonate with the social justice ethos of Gen Z, recognising their preference for authenticity and social responsibility in the workplace.
- HR practitioners acknowledge that this generation is more aware of their rights, prioritises work-

life balance, and expects a workplace that aligns with their values and principles.

- The hospitality industry should allow Gen Z employees the space to express their creativity and innovation. This not only aids in retaining them but also ensures that the services provided resonate with younger clients, who are now the predominant customer base in the hospitality sector.

- Hospitality leaders to create environments where this generation can freely express their ideas and take ownership of projects. This is key to engaging them and benefiting from their unique perspectives.

- Organisations must adapt their policies to align with the values of younger employees, such as the "come as you are" culture.

- HR practitioners must understand this generation and offer guidance while fostering empathy in the workplace.

- Invest time in understanding their language, slang, and communication preferences to foster more robust engagement.

- Instead of imposing traditional organisational culture on Gen Z, collaborate with them to shape a workplace culture that resonates with their values, dress, and work styles. For example, Radisson Red employs staff who relate to and dress in Gen Z styles.

Characteristics of the various generations

Type of Generation	Characteristics
Traditionalist – The Silent Generation	• Born: 1925 – 1945 (79-99 years) • Characteristics: Conservative, hardworking, loyal, possess valuable institutional knowledge (especially in organisations they work in) • Shaped by: Colonialists, World War II • Motivated by Stability and Job Security • Communication Style: Extremely Formal in the workplace • Worldview: Patriotic
Baby Boomers (The Industrial Revolutionists)	• Born: 1946 – 1964 (60-78 years) • Characteristics: Focused, Disciplined, Strong Work Ethic, Drawn to Leadership, and ability to build relationships with guests • Shaped by Colonial Social and Industrial changes • Motivated by: Company loyalty, financial stability, career advancement • Communication style: Formal, personal touch, handwritten communication/memos • Worldview: Idealistic and Progressive
GEN X – The Information Revolutionists	• Born: 1965 – 1980 (44-59 years) • Characteristics: Open-minded, independent, able to adapt • Shaped by: Rise in technology, for example, video cassette players, and economic uncertainty • Motivated by: Learning and keen on development, work-life, and a lot more flexibility in the workplace • Communication style: Direct, write letters, telephones started coming in • Worldview: Realistic and progressive

GEN Y / The Social Revolutionists	• Born: 1981 – 2000 (24-43 years) • Characteristics: Socially conscious, tech-savvy, value career mobility (On average, they last three years in a job) • Shaped by: Digital Revolution and Globalization • Motivated by: Positive work culture (inclusion/open door, less structured), autonomy ('I can do this myself), and work-life balance • Communication style: Direct digital (more ads on digital than in physical newspapers/where are job ads being placed?) • Worldview: Global (all people are one), strong social and environmental consciousness (they care about the future because it is theirs – they understand and appreciate globalisation)
Gen Z – The Social Media Revolutionists	• Born: 2001 – 2020 (04-23 years) • Characteristics: Digital natives, career multitaskers (not dependent on one job- monetising on social media), creative, & innovative (disruptive to the status quo, allowed to be themselves, less equipped to deal with stress. • Shaped by: Rapid technological advancements and globalisation • Motivated by: Social impact, tech in the workplace, diversity and inclusion, and trends • Communication styles: Digital, Informal. Instant Messaging • Worldview: Digital Connectivity, Social justice and activism

3.7   Conclusion: The hospitality industry players must integrate these insights into their strategic planning and daily operations to ensure that the industry remains attractive and supportive for the next generation.

3.8   YouTube Videos: Jeff Mukolwe played the YouTube videos below that spoke on GenZ's.

• 	https://www.youtube.com/watch?v=y-CdlHrr7Tc

• 	https://www.youtube.com/watch?v=_VA9UkU-2AM

People and Productivity

Elphas Were
Consultant

Focus: Unlocking people-driven productivity in the hotel industry/ Strategies to discover strategies for empowering your hotel workforce to drive productivity and enhance guest experience.

Introduction:
Empowering the hotel workforce to drive productivity hinges on understanding the intricate relationship between people and performance. By implementing strategic HR practices—focused on recruitment, motivation, workplace culture, and effective communication—hotels can enhance productivity, improve guest experiences and sustain business success. The following are the strategies that can be used to achieve this:

Linking people & productivity: Understanding the connection between people and productivity is crucial in the hotel industry. Employees of diverse backgrounds—youth, adults, and seniors—are essential for operational success. Identifying productivity indicators and recognising the factors influencing them is fundamental to achieving productivity. This involves hiring the right personnel, fostering motivation approaches, and creating a safe workplace, all of which contribute to enhanced productivity.

Influencing productivity: Hotel management must ensure a productive environment to influence productivity. This includes assessing the organisation's input—people, space, infrastructure, and materials. Effectively using these inputs results in improved outputs, leading to increased guest satisfaction. Poor hiring decisions or lack of motivation can hinder productivity; hence, attention to employee needs is paramount.

People, Productivity and Planning: This plays a vital role in linking people and productivity. A clear organisational structure must be established, defining roles and responsibilities. Employees should be involved in the development of these structures to ensure understanding and buy-in. Continuous review and adaptation to changing circumstances are essential for sustained productivity.

Recruiting productive people: Effective recruitment is the foundation of a productive workforce. HR professionals must:

- Determine the necessary work tasks.

- Develop clear job descriptions.

- Attract suitable candidates.

- Conduct thorough interviews and select the best fit.

- Facilitate onboarding processes to help new hires acclimate.

How to encourage staff productivity: Encouraging productivity requires a multifaceted approach:

- Implementing fair remuneration and job security.

- Establishing clear performance standards and expectations.

- Promoting workplace safety and team collaboration.

- Providing opportunities for training and development to enhance employee skills.

Workplace and productivity: A conducive workplace is fundamental to productivity. HR must ensure a safe and healthy environment. Recognising and addressing employee challenges, such as personal issues or workplace stress, can lead to improved morale and productivity.

Workplace culture and productivity: Defining and nurturing a productive workplace culture is essential. This involves fostering open communication, respect, and inclusivity. A positive culture enhances employee satisfaction and boosts productivity and guest experiences.

Managing employee complexities: Managing the complexities of a diverse workforce requires sensitivity and adaptability. HR practitioners must promptly address discrimination, workplace conflicts, and employee grievances. Providing support and resources to troubled employees can mitigate challenges and enhance overall productivity.

Business relations & productivity: Strong internal and external business relations are critical for productivity. Building a supportive network with other businesses can enhance operational efficiency and guest experiences. Effective communication and collaboration with all stakeholders, including suppliers and partners, contribute to a thriving hotel environment.

Data Protection in the Context of the Hospitality Industry

Focus: The role of HR Professionals in Data Protection Compliance

Collette Akwana

CIPP/E Partner, CMS, Daly Inamdar Advocates LLP

Introduction

The Data Protection Act 2019 and accompanying regulations emphasise the need for caution in how information is collected and shared. In this context, the HR professional is critical in ensuring compliance by legally, transparently, and responsibly handling employee data. Below are key approaches and key actions that HR professionals in the hospitality industry need to consideration:

5.1 Key approaches HR professionals in the hospitality industry should comply with Kenya's Data Protection Act 2019.

- *Informed Consent and Legality:* HR professionals must ensure that any personal data collected, processed, or shared is done so legally. For example, HR must obtain explicit consent from the employee before sharing employee data with third parties like banks or recruitment agencies. Without this consent, sharing such information would be illegal under the Data Protection Act.

- *Data Quality and Accuracy:* HR is responsible for maintaining accurate and up-to-date employee records. Any data collected should be kept current, and when changes occur, such as updates to an employee's personal details, HR must promptly update the records to ensure data quality.

- *Data Sharing with External Parties:* HR departments must be cautious when sharing employee information with external parties (e.g., for background checks or loan applications). Sharing such data without obtaining permission from the employee is a breach of data protection laws. The HR professional must ensure all data sharing is legally justified and compliant with the employee's rights.

- *Handling Data Breaches:* The HR department is critical in managing and responding to data breaches. A breach does not only involve cyber incidents but also mishandling physical data, such as leaving sensitive employee records inaccessible areas. HR departments must proactively report breaches and promptly inform the concerned parties.

- *Accountability and Documentation:* HR professionals are accountable for collecting, storing, and processing employee data. This involves having proper documentation, such as privacy policies, data retention policies, and employee privacy notices. HR should ensure that all processes comply with the law and that the data is stored securely and retained for as long as necessary.

- *Employee Privacy throughout the Employment Cycle:* From the point of recruitment to off-boarding, the HR department is responsible for protecting employee data. This involves ensuring that personal information gathered during recruitment is relevant and obtained with permission. During employment, HR must maintain transparency in data usage and ensure

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employees' right to privacy. At off-boarding, HR must securely handle employee data and ensure it is disposed of appropriately according to retention policies.

- *Monitoring and Surveillance:* HR has the right to monitor employees (e.g., through CCTV or email tracking) but must do so transparently. Employees should be informed of such monitoring practices, and the purpose of monitoring should be clearly stated. Hidden surveillance or disproportionate monitoring practices are illegal and violate data protection laws.

- *Retention and Disposal of Data:* HR must implement data retention policies that dictate how long employee data should be kept and when it should be securely disposed of. Retaining data unnecessarily, especially for employees who have left the organisation, can lead to non-compliance with data protection laws.

- *Training and Capacity Building:* HR should ensure that all employees, especially those handling personal data, are trained on data protection laws and internal privacy policies. Continuous training on properly handling personal data helps maintain compliance and reduces the risk of breaches.

5.2 Key actions that an employer can take that go against the Data Protection Act 2019 and which are considered illegal

- *Using Photos Without Consent:* Taking and using patrons' photos, such as for marketing purposes, without their explicit consent is illegal.

- *Implied Consent via Notices:* Posting notices stating that guests automatically consent to having their photos taken by entering a hotel is illegal. Consent must be explicit, not implied.

- *Unjustified Data Collection:* Collecting personal data such as blood group details from employees without explaining why the data collection is illegal.

- *Retaining Unused Applicant Data:* Keeping the personal data of unsuccessful job applicants, such as their CVs and referee details, and reusing it for future recruitment without consent is illegal.

- *Unauthorised Background Checks:* Conducting background checks on potential employees without informing them and obtaining their consent is illegal.

- *Uninformed Surveillance:* Recording employees through surveillance systems without notifying them and ensuring transparency is illegal.

- *Retention of Unnecessary Data:* Keeping records of employees who left the organisation years ago (e.g., 10-20 years) without a valid reason or retention policy is illegal.

- *Collecting Data Without a Valid Legal Basis:* Gathering personal information, such as details about an employee's children, without a legitimate reason or documented legal grounds for processing the data is illegal.

- *Sharing Employee Data Without Consent:* Providing information about an employee's salary or employment status to external entities (e.g., a bank) without obtaining the employee's consent is illegal.

- *Monitoring Employees Without Transparency:* Surveillance of employees (e.g., tracking vehicles, hidden cameras) without informing them or explaining the purpose of the monitoring is illegal.

- *Unlawful Background Checks:* Performing background checks on potential employees without

obtaining their written consent or sharing the feedback from those checks with the employee when requested is illegal.

- *Data Sharing Without Consent from Recruitment Agencies:* Contacting a potential candidate based on information provided by a recruitment agency without confirming the candidate's permission to share their data is illegal.

- *Improper Use of Surveillance Data:* Using surveillance footage (e.g., CCTV) for non-work purposes, such as entertainment or unauthorised sharing of recordings, is illegal.

5.3   Key Definitions of Terms

Term	Definitions
Data – *information which*	a. is processed by means of equipment operating automatically in response to instructions given for that purpose; b. is recorded with the intention that it should be processed by means of such equipment; c. is recorded as part of a relevant filing system d. where it does not fall under (a), (b) or (c), forms part of an accessible record, or; e. is recorded information held by a public entity and does not fall within any of paragraphs (a) to (d).
Personal data	Means information relating to an identified or identifiable natural person.
Sensitive personal data	Means data revealing the natural person's race, health status, ethnic, social origin, conscience, belief, genetic data, biometric data, property details, marital status, and family details, including names of the person's children, parents, spouse or spouses, sex or the sexual orientation of the data subject.
Identifiable natural person	A person can be identified directly or indirectly by reference to an identifier such as a name, identification number, location data, online identifier, or one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity.
Data subject	An identified or identifiable natural person who is the subject of personal data.
Data controller	A natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purpose and means of processing of personal data.
Data processor	A natural or legal person, public authority, agency or other body which processes personal data on behalf of the data controller
Personal data breach	A breach of security leads to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of or access to personal data transmitted, stored, or otherwise processed.
Consent	Any manifestation of express, unequivocal, free, specific and informed indication of the data subject's wishes by a statement or by clear affirmative action, signifying agreement to the processing of personal data relating to the subject.

"Processing"	Any operation or sets of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as;
	• collection, recording, organisation, structuring;
	• storage, adaptation or alteration;
	• retrieval, consultation or use;
	• disclosure by transmission, dissemination, or otherwise making available or;
	• alignment or combination, restriction, erasure or destruction

5.4 Plenary Discussion

The following are the key outcomes of the discussions:

Data Retention Requirements: According to the Employment Act, employers must retain employee records for five years after termination of employment. This is particularly important for handling potential legal claims, as employees can sue an employer three years after leaving. However, retaining data beyond this period may open organisations to legal risks, especially if the information becomes outdated or inaccurate.

Challenges of Long-Term Data Retention: For employees who have been with the employer for decades or retired years ago, data such as their names, addresses, or even credentials may have changed. Storing outdated information poses risks, including hefty penalties for maintaining inaccurate records. This becomes especially relevant in the context of employees hired when the company was founded 15 or 20 years ago.

Loan Default Inquiries: The practice of third-party loan applications or banks contacting employers when employees default on loans presents a privacy risk. Lenders often contact the organisation to push for repayment even if the employer had no direct role in the loan arrangement. HR professionals should not share salary details or other private employee information without the employee's explicit consent.

Employee Data Accuracy: Inaccurate employee data, such as outdated personal details or employment records, can lead to significant financial and reputational damage. For example, legal settlements can reach millions of shillings if inaccurate data is discovered during legal disputes.

Data Minimization: The principle of data minimization requires that organisations only collect and store the minimal amount of personal data necessary for a specific purpose. Retaining unnecessary data, especially for former employees, increases the risk of breaches and non-compliance with data protection laws.

Handling of Retiree Records: Companies should not hold onto their data indefinitely when it comes to retirees. A reasonableness test should be applied to determine an appropriate retention period.

Consent for Use of Employee Photos: Consent for using employee images is crucial, and organisations must differentiate between different contexts, such as using a photo from a staff party for social media versus using the same image in promotional materials. Each use case requires explicit and separate employee consent.

Total Quality Life

Boniface Nyoike
Motivational Speaker

Introduction

Mr. Nyoike stated that pursuing a *Total Quality* Life is not just about surviving or existing; it's about creating a life of purpose, growth, and significance. This holistic concept of life, he said, revolves around balancing personal, professional, and social spheres to elevate both the inner and outer aspects of one's life. *A Total Quality Life* aligns all parts of one's life towards excellence and fulfilment.

Below are the key approaches that Mr. Nyoike presented for one to achieve a Total Quality Life:

1. Building Inner Quality: The foundation of *a Total Quality Life* begins with cultivating *inner quality*. This refers to the values, beliefs, and mindset that shape one's actions and decisions. Without strong inner quality, external success remains shallow and is not sustainable.

- *Self-Awareness:* Knowing who you are and what you seek helps align personal and professional goals. Clear purpose helps one navigate life's challenges more effectively. Mr Nyoike cited the example of one working with a demanding boss, and he suggested that instead of always getting frustrated, one should *'reframe'* and find how best to grow from the challenge being faced.

- *Reframing Challenges:* Whether one is dealing with a harsh business environment or interpersonal issues, how one frames the situation matters. Mr Nyoike quoted Steve Covey, who said, *"We see things not as they are, but as we are."* This perspective, he stated, shifts challenges from barriers to opportunities, allowing one to navigate through them with creativity and resilience.

- *Mindset for Progress:* A progressive mindset is essential. Being stuck in stubborn, unchanging ways limits one's growth. Mr. Nyoike stressed the need for adaptability, stating, *"The future belongs to those who can learn, unlearn, and relearn."* Without flexibility, success is unattainable, as growth demands continuous evolution of knowledge and skills.

A total quality life

"The purpose of life is not to be happy. It is to be useful, to be honourable, to be compassionate, to have it make some difference that you have lived and lived well."

Ralph Waldo Emerson

2. The Concept of Progress Bankruptcy: Mr Nyoike introduced the idea of progress bankruptcy—a state where, despite the passage of time, one lacks personal or professional development. This concept drives home the point that living long does not equate with living well.

- *Living Long vs. Living Well:* "Living long is a result of the passage of time, while living well is a result of application of strategy." Mr Nyoike contrasted two types of people: one who has lived long but bitterly and another who is younger yet vibrant and full of life. The critical difference lies in age and how strategically they have lived. Living well requires mindful actions and a

progressive mindset, while simply passing through life without intention can lead to stagnation and bitterness.

3. Four Indicators of a Quality Life: To determine if you are living a *Total Quality Life,* Mr. Nyoike gave four critical indicators that can serve as a measure of one's progress:

- *Resourcefulness:* Quality of life is not about how many resources one has but how resourceful one is. Mr. Nyoike emphasised that "Africa's *problem is not the lack of resources; it's the lack of resourcefulness."* Resourceful people marshal what they have effectively and creatively to solve problems and move forward. A person's resourcefulness elevates their value, both socially and professionally.

- *Relevance:* Staying relevant requires innovative thinking and a futuristic approach. It's not age that makes someone irrelevant, but their inability to adapt and think ahead. Mr. Nyoike stated that people often become irrelevant not due to age but because they stop thinking progressively. One must continually seek new ways to create value.

- *Risk-Taking Ability:* Mr. Nyoike cited a study done by sociologist Tony Campolo, who researched people over 80 years of age and found that most regretted not the risks they took but the ones they didn't.

   "The risks one avoids determine the regrets you will experience."

- *Resilience:* A high-quality life requires resilience – the mental toughness to plough through challenges. Mr. Nyoike gave an example of Abraham Lincoln's leadership during America's most challenging times, pointing out that his resilience is what distinguished him from other leaders.

   "Resilience is the ability to use the mind to navigate and withstand difficulties."

4. Four Practices to Achieve a Quality Life: The journey to a *Total Quality* Life isn't complex or out of reach. It involves adopting daily practices that everyone can integrate into their lives. These practices focus on building inner quality, which then reflects in every other aspect of life.

- *Pursuit of Genuineness:* Being genuine means having pure motives and a commitment to honesty and integrity in all dealings. Mr Nyoike shared an experience from his life where a colleague shortchanged him by giving him 95,000 shillings instead of 100,000. Genuine individuals build trust, create strong relationships, and foster healthier work environments.

   "Working with someone who is not genuine is like eating with a broken tooth—painful and uncomfortable."

- *Commitment to Growth:* Personal growth is continuous. It involves asking how you can become better in every situation. Mr. Nyoike cautioned against complacency, stating that those who stop growing personally and professionally are effectively dead long before their time.

   "Growing people become resourceful people. Resourceful people become relevant people. Relevant people become on-demand people."

- *Generosity:* Mr. Nyoike emphasised that generosity is a key trait of people who leave lasting legacies. He recalled the late CEO of Mombasa Cement, who was celebrated for his generosity, not his wealth. "Never consume more than you contribute" is the law of quality living. Whether professionally or personally, generosity is about giving without expecting anything in return. It's about enriching the lives of others, which in turn enriches your own life.

Mr Nyoike shared an example of his friend who regularly hosts pizza parties for his young team members from his office. This generosity has earned him their loyalty and built a strong team spirit, demonstrating that generosity fosters meaningful connections.

- *Gratitude:* Living with gratitude shifts one's focus from entitlement to appreciation. Mr. Nyoike cited a study on 1,300 managers, revealing that those who cultivated a culture of gratitude were more productive. Gratitude leads to inner contentment and enriches relationships instead of living in a constant state of dissatisfaction.

Conclusion: A *Total Quality Life* is not defined by longevity or external success alone. The culmination of inner growth, resourcefulness, resilience, and generosity creates a fulfilling and impactful life. By focusing on inner quality and staying committed to progress, we can live not just long lives but meaningful ones.

"When everybody else sits down, you stand up. When everybody else stands up, you stand out. When everybody else stands out, you become outstanding. And when everybody else becomes outstanding, you become the standard."

Managing Employee Exit

Ivy Wasike
Principal Magistrate, Kilifi Law Courts

Introduction

Managing employee exit is a pivotal component of human resource management that encompasses all the processes and practices involved when employees leave an organisation. This includes voluntary resignations, retirements, and involuntary exits such as layoffs or terminations. Effective management of this process can minimise disruptions, maintain organisational integrity, and foster a positive workplace culture.

Below are the essential elements provided by *Hon. Ivy Wasike* on employee exit management, including legal considerations, procedural fairness, communication strategies, and the impact they may have on an organisation's performance.

7.1 Legal Framework and Compliance

The Employment and Labour Relations Court has the original Jurisdiction to hear and determine disputes relating to employment and labour-related issues. The Court gets this mandate from Article 162 of the Constitution, which establishes courts of equal status. The Magistrates Court has original Jurisdiction to only hear employment disputes; it does not have Jurisdiction to hear labour disputes. The Jurisdiction of the Magistrates court starts with Senior Resident Magistrates. To have the Jurisdiction to do so, they must be gazetted by the Chief Justice. (Section 29, 3&4 of the Employment and Labour Relations Court Act). Any appeals from the Magistrates Court in Employment Matters go to the Employment and Labour Relations Court. However, employment and labour matters are mostly referred to mediation, which is the preferred solution.

Legal Frameworks on Employee Exit which organisations must adhere to include:

- Article 162 of the Constitution (Courts of Equal Status)

- Article 41, 47 & 51 of the Constitution (Procedural Fairness & Fair Labour Practices)

- Regional/International Frameworks under the ILO

- Statutes (Employment Act, Labour Relations Act, Employment & Labour Relations Court Act, Fair Administration Act)

These laws dictate the procedures for termination, severance, and employee rights during the exit process.

7.2 Types of Employee Exits

- *Voluntary Exits:*

  o An employee takes the initiative to leave the employment.

- o Employees may resign for various reasons, including career advancement, personal circumstances, dissatisfaction with job roles, or organisational culture. Understanding these motivations through exit interviews can provide valuable insights into areas that need improvement within the organisation.
  - o Voluntary exits are also brought to Court
- *Involuntary Exits:*
  - o The employer removes the employee from his employment.
  - o Situations leading to involuntary exits include layoffs due to economic downturns, performance-related terminations, or disciplinary actions. Properly managing these situations minimises legal repercussions and maintains workplace morale.
- *Mutual Termination*
  - o Employer and employee agree on terms of ending the employment.
- *Casual Employees*
  - o Termination can be done without any reason.

Exit Management is a process that ensures a smooth and organised transition for employees leaving the organisation. It ensures Legal Compliance, Protection of Company Assets, Maintain Confidentiality & Security, Feedback and maintaining a positive relationship. The Basic Principles of an Exit Strategy should consider the following:

- Category the employee falls under
- Terms of his or her employment
- Clear exit clauses
- Nature of duties or job

The human resource policy and procedures should be in line with the law, which will guide how the exit is to be handled, including process, dues, etc. Proper management of employee exits ensures a fair and compliant process

7.3 Principles of the Exit Processes

The underlying principle in all determinations is Articles 41& 47 – Procedural Fairness and Substantive Fairness.

- **Procedural Fairness:** An organisation must ensure that all termination processes adhere to procedural fairness as outlined in the *Employment Act* and *Fair Administrative Act.* The employee must be given:
  - o Written, clear and specific charges explaining the grounds for their dismissal.
  - o Procedural fairness – they should be given adequate and reasonable time to respond (7 to 21 days)
  - o It is the duty of the employer to i) inform the employee that he/she has the right to be accompanied by a fellow employee or Union Official or an AdvocateAn opportunity to defend themselves at the disciplinary hearing, ii) inform the employee of the date of his/her disciplinary hearing – this notice should be sufficient.

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- The decision outcome of the disciplinary hearing should be communicated to the employee in writing. The reasons for the decision should be clearly communicated. The employee will use this letter to appeal the decision
.
- All HR officials should have an internal disciplinary appeal process in place. The panel that will hear the appeal must be different from the panel that carried out the disciplinary action.
- If no agreement is reached (all internal mechanisms have been exhausted), the next step would be to move to Court.

- **Substantive Justification:** Section 53 of the Act states that an employer must give a notification that shows that he has a valid reason to terminate the employee.

In any of the two processes above, an Employer ensures that procedural and substantive fairness tests must be adhered to.

7.4 Unlawful Strikes and Union Activities

What is an unlawful strike? Part 10 of the Employment Act (Section 76-81) stipulates that the mandatory procedures for a strike are lawful. *(Case Law University of Nairobi v Kenya Union of Domestic, Hotels, Educational Institutions and Hospital Workers & 4 others [2018] eKLR).*

7.5 Recruitment, Selection and Appointment

Employers should carefully adhere to the requirements set

out in the specific Articles within the Constitution of Kenya .

On the computation of terminal dues and statutory deductions: Employers should adhere to Section 19 (1)(f) as read with Section 49 of the Employment Act and together with Section 37(1) of the Income Tax Act.

On the death of an employee (Dues and Liability): Employees should have minimum reasonable measures of protection in place, such as protective gear for security guards. In case of his/her death, an employee's duties should determine the employer's liability .

On Employee Compensation: An employer should be guided by the following Acts:

- Workman's Compensation Act
- Law Reform Act – Loss of Dependency (Determines the dependants)
- Fatal Accident Act – Loss of Life, pain & Suffering and Expenses

What is used to determine the compensation:

- The value of annual dependency which value is the multiplicand
- The value is derived from the net earnings of the deceased.
- Multiply the multiplicand by a reasonable figure representing the life expectation of the deceased, which is referred to as the multiplier.
- The expectation of life and dependency of the dependants and chances of life of the deceased

[1] *Case Law: Ali* v Ministry of Interior and Coordination of National Government & 3 others; Public Service Commission & another (Interested Parties)

(Petition E183 of 2021) [2022] KEELRC 1460 (KLR)

[2] Makala Mumende –vs- Nyali Golf and County Club Civil Appeal No. 16/89

and dependants are also relevant factors.

- The sum thus arrived at must then be discounted to allow legitimate considerations such as the fact that the award is being received in a lump sum and would yield returns of an income nature if wisely invested.

On Restructuring: This may not necessarily mean one has been terminated from employment. It may mean a change of terms. Sections 43 and 45 of the Employment Act comes into force when it involves termination. Termination is not unlawful unless it infringes on the right to fair administrative action, fair labour practices, fair hearing, and legitimate expectation if made unilaterally (an employee should be notified). The proper restructuring process must follow the relevant Policies and Acts.

On Redundancy: Section 40 of the Employment Act sets out the procedure. Under this Section,

On Non-Compete and Confidentiality Agreements: Employers may implement post-employment restrictions to protect company interests. These agreements should be clearly defined, reasonable, and compliant with legal standards. Specifying such agreements' scope, duration, and geographical limitations is essential to avoid ambiguity.

Onboarding process: The Court could intervene in the internal disciplinary proceedings for a good cause being shown by the employee. The Court's intervention to interdict disciplinary action before its conclusion should be exercised in exceptional circumstances. The grounds upon which the Court would intervene in an employer's disciplinary process included;

- Where an employee established that the employer was proceeding in a manner
- that contravened the provisions of the Constitution or legislation, or
- In breach of agreed terms of contract or employer's policy, or
- If the process was manifestly unfair and offended the rules of natural justice.

7.6 Plenary Discussion

Lack of Empirical Data on Employee Exits: There is currently no comprehensive empirical data to support whether employee exits in the industry are predominantly voluntary or involuntary. Although employers are required to submit employee returns to the National Employment Authority monthly or yearly, this information is not effectively utilised. These returns capture details on both incoming and outgoing employees and specify whether each exit was voluntary or involuntary. This lack of data utilisation leads to different stakeholder interpretations, including union officials and management, resulting in conflicting viewpoints based on subjective experiences rather than objective evidence. Consequently, involuntary exits often receive more attention because they escalate to legal disputes, while voluntary exits go unnoticed.

Suspension Letter: An organisation should have the process in place for suspension. It should include:

- The charges against the employee should be clearly spelt out.
- The period of suspension must be stated.
- Under the law, an employee who has been suspended must receive a half-salary.
- The letter must state where or to whom the employee will report and the frequency.

The Objective Test or Reasonable Man Test: This test evaluates if the decision to terminate is fair from an outsider's view. It ensures that dismissal is based on justifiable reasons and not the employer's

subjective views. To carry it out correctly, the following will need to be considered:

- *Nature of Misconduct:* Was this the first instance? Did the employer issue warnings and try to resolve the issue?

- *Measures Taken:* Were steps taken to accommodate the employee, such as addressing health or personal issues?

- *Evidence and Fair Hearing:* Was the employee given a chance to defend themselves, and was their evidence reviewed fairly?

- *Impartiality:* Did a neutral party handle the dismissal, ensuring no bias?

- *Efforts to Reach Employees:* In cases of absconding, did the employer attempt to find or contact the employee before dismissing them?

- *Appeals Process:* Was the appeal handled by a different panel to ensure fairness?

The courts will review whether the employer provided sufficient evidence to justify the termination and whether all due processes were followed.

Retirement Planning

Tom Kiptanui

**Ag. Director, Market Conduct and Industry Development,
Retirement Benefits Authority (RBA)**

8.1 About the Retirement Benefit Authority

The Retirement Benefits sector in Kenya is regulated under the Retirement Benefits
Act No. 3 of 1997, also established the Retirements Benefits Authority (RBA) with the
following mandate:

The RBA is a government institution established by the Retirement Benefits Act of 1997 and began
operations in 2000. Its primary mandate is to regulate and supervise the retirement benefits sector,
ensuring compliance and safeguarding the interests of members and employers. RBA operates
alongside other financial institutions like the Central Bank and Capital Markets Authority to protect
members' rights by ensuring contributions are correctly remitted and schemes are well-managed.

RBA provides a channel for resolving disputes before seeking legal recourse. Members or trustees
facing issues can approach RBA for guidance and resolution.

8.2 How to Plan for Retirement

Mr. Tom Kiptanui emphasises the critical need for individuals to actively and thoughtfully plan for
their retirement to ensure financial security, well-being, and peace of mind in their later years. He urged
Human Resource Practitioners, as individuals and custodians of organisational welfare, to champion a
proactive approach to retirement planning within their organisations and personal lives. Below are the
fundamental approaches or guiding steps from his presentation on how to effectively plan towards
retirement:

8.3 Start Early and Be Consistent

It is critical to start retirement savings as early as possible, regardless of employment status or income
level. Early planning takes advantage of the power of compound interest and allows individuals to build
a substantial fund over time. Even small, consistent contributions over a long period can accumulate
significantly by retirement. People tend to underestimate the time they will spend in retirement, which
can often exceed 20 years, and not planning for this extended period can lead to financial distress.

Example 1: Individuals retiring at 60 will need to prepare for 20-26 years of post-retirement expenses,
considering average life expectancy. This includes daily living costs and unforeseen medical expenses,
which tend to increase with age.

Example 2: Traditional systems, where retirees relied on extended family or children for support, are no
longer reliable today. Older generations with multiple children are expected to be taken care of in old
age; in this age, children might instead need support from their parents, even as adults. This knowledge
necessitates personal financial preparedness to avoid becoming a burden.

8.4 Leverage Available Retirement Schemes

Mr Kiptanui introduced various retirement saving options such as the National Social Security Fund (NSSF), occupational schemes, umbrella schemes, and individual pension plans. Individuals should explore these options and choose the one that best suits their needs and employment status. Individuals in formal or informal employment should be part of a scheme to secure their future.

He advocated for members to stay within their retirement schemes even when they change jobs rather than withdrawing and spending the funds. Pension portability should be a priority to ensure continuity in savings.

8.5 Understand the Structure and Benefits of Pension Schemes

It is crucial to understand the various structures and benefits of pension schemes available, their benefits, and the various modes of accessing the benefits, such as lump sums and annuities. These options should be considered based on personal circumstances and long-term needs.

HR practitioners should encourage employees to familiarise themselves with the annual benefits statement and ensure the details are correct, as this information is crucial for retirement planning.

8.6 Incorporate Health Planning into Retirement

Health is seen as a critical component of retirement planning, as inadequate health cover can lead to the depletion of retirement funds. Health considerations are often overlooked in retirement planning. Because of the increased health risks and expenses incurred as one advances in age, it is imperative to set aside a portion of retirement benefits for medical cover; products like medical savings plans that cater to retirees' health needs can be considered

8.7 Avoid Pitfalls and Leakage of Pension Savings

Common pitfalls that reduce retirement savings include withdrawals when changing jobs and using pension funds for purposes other than retirement. One should, therefore, avoid withdrawing funds to finance short-term needs like car purchases or building a home (after a certain age, close to retirement). The funds should be left intact to benefit from compound interest.

8.8 Educate Employees and Promote Financial Literacy

Many people lack adequate knowledge about retirement planning and often make uninformed decisions. HR practitioners should play a pivotal role in educating their employees about their pension schemes and the importance of saving for retirement. Doing so will help foster a culture of saving. By empowering employees with information, they can make better decisions and avoid falling into the trap of inadequate savings at retirement.

8.9 Align Personal Financial Goals with Retirement Planning

Beyond just saving in a pension scheme, individuals should align their personal financial goals with their retirement planning strategy. This means assessing one's lifestyle, expected expenditures, and potential risks during retirement. For example, i) the importance of considering home ownership and paying off debts before retirement so that one does not pay these costs during their non-working years, ii) diversifying one's investments and making additional voluntary contributions beyond what the employer offers to ensure a more secure future.

8.10   Prepare for the Long-Term through Strategic Decision Making

A key theme in the talk is that retirement planning is not merely about having a fund but making

strategic decisions on accessing and utilising those funds upon retirement. He spoke on various options like annuities and income draw downs each with unique benefits and implications. His advice is for members to consult with financial advisors and explore all available options before deciding on the structure of benefits that aligns with their long-term goals.

8.11   Key Takeaways

- HR practitioners are change agents who can instil a culture of saving and sound financial planning among employees.

- Planning for retirement can make the difference between financial freedom and economic struggle.

- Individuals can ensure a secure and dignified retirement by starting early, understanding available options, and making informed decisions.

- Effective planning and education are crucial to achieving retirement goals and ensuring a comfortable post-retirement life.

Mental Health and Wellness

Dr Stephen Wahome
Psychological Health Services

Dr Stephen Wahome's talk on mental health and wellness aimed to demystify mental health, highlight its importance in personal and professional settings and offer practical advice on how individuals and organisations can support mental well-being.

9.1 Understanding Mental Health and Wellness

Mental health refers to a state of well-being where an individual can cope with the normal stresses of life, work productively, and contribute meaningfully to their community. Dr Wahome compares mental health to a computer system, where the mind is the software driving behaviour, feelings, and productivity. He underscores that mental health affects every aspect of a person's life and, if neglected, can lead to conditions like anxiety and depression.

"When we talk about mental health, we're looking at the software in your mind that drives the whole process. That makes you do what you want to do or move on to something else."

9.2 Factors Contributing to Mental Health Issues

Dr. Wahome identifies several factors that contribute to mental health challenges, including biological, psychological, and social factors:

- *Biological Factors:* Imbalances in brain chemicals like serotonin and dopamine can lead to mental health conditions such as depression. The use of alcohol and drugs can temporarily alter these chemicals, providing a false sense of happiness but ultimately exacerbating the problem.

- *Psychological Factors:* Negative thought patterns, unresolved emotional issues, and trauma can lead to anxiety and depressive disorders.

- *Social Factors:* Relationships, workplace environment, financial difficulties, and societal expectations can heavily impact mental well-being. Conflicts and relationship issues, particularly in family and workplace settings, are significant triggers of mental health problems.

"Depression is a mood disorder that causes persistent feelings of sadness, worthlessness, and lack of interest in everything that you used to enjoy."

9.3 Common Mental Health Disorders

- *Anxiety:* Characterised by persistent worry, fear, or nervousness. It manifests in physical symptoms like chest pains, difficulty breathing, or even panic attacks. Individuals experiencing anxiety may display behaviours such as avoidance or isolation.

- *Depression:* This leads to feelings of hopelessness, lack of motivation, and disinterest in activities. Depressed individuals may also suffer from sleep disturbances, changes in appetite, and low energy levels.

- *Compulsive Disorders and PTSD:* Involves repetitive behaviours and flashbacks from traumatic

events. These conditions often interfere with day-to-day functioning and may require medical intervention.

9.4 Signs of Mental Health Issues in the Workplace

- *Poor Work Performance:* Individuals facing mental health challenges may show reduced productivity, lack of motivation, and absenteeism.

- *Behavioural Changes:* Sudden shifts in mood, such as extreme happiness followed by aggression or sadness, can indicate mental health struggles.

- *Social Withdrawal:* Employees may isolate themselves, avoid teamwork, and become overly sensitive to feedback or criticism.

"When you terminate a depressed person, does he become better or worse? Worse."

9.5 Managing and Supporting Mental Health

For Individuals:

- *Adopt Healthy Coping Strategies:*
  - o Engage in regular exercise, even if it's just a 30-minute walk.
  - o Practice mindfulness and relaxation techniques.
  - o Break large tasks into smaller ones to reduce being overwhelmed.
  - o Maintain a balanced diet and avoid excessive consumption of alcohol or unhealthy foods.

- *Seek Professional Help:* Consult a therapist for psychotherapy or medication, especially for severe depression.

- *Build a Support System:* Talk to friends, family, or mentors about personal struggles. Social support is crucial for mental well-being.

9.6 For Employers and HR Professionals

- *Create a Supportive Work Environment:*
  - o Encourage open conversations about mental health and reduce stigma.
  - o Provide access to mental health services as part of employee benefits.
  - o Establish work-life balance by offering flexibility and access to wellness programs.

- *Recognise and Address Mental Health Challenges:* Be vigilant for signs of mental health issues among employees and offer early intervention, such as counselling services.

- *Implement Wellness Programs:* Include activities like team-building, access to gym facilities, or designated "mental health days" to promote overall well-being.

"Let us not only think about the side of people who have the problem. Let's look at what you call white hybrid system. Is there anything they can do to support as a creation of relief?"

9.7 Addressing Stigma and Promoting Emotional Intelligence

Dr. Wahome emphasises the role of emotional intelligence in managing mental health. Understanding and controlling emotions helps effectively communicate, resolve conflicts, and maintain healthy relationships. He advises HR professionals to foster an environment where emotional expression is welcomed and supported.

Closing Remarks

Albert Njeru
Secretary General, KUDHEIHA

Mr. Albert Njeru began his remarks by stating that the overall purpose of KUDHEIA was to foster harmonious industrial relations within the industry and ensure that harmony is maintained. He called for teamwork to address issues within the industry, emphasising that collaboration was essential for finding solutions.

He then highlighted the importance of accepting the current reality of the diverse generations in the workplace, from Generation Z to baby boomers. In this regard, he urged the Union and employers to reinvent themselves around their ways of working, to comfortably accommodate these diverse generations, improve the aspect of communication to foster growth and move out of their comfort zones to find common solutions to the challenges facing the industry.

He concluded by encouraging open communication among attendees and sharing contacts to build a supportive network. He highlighted the need to empower one another and create a stronger community within the industry.

Participants Feedback on the organization of the HR Conference

In this session, participants were asked to give their feedback and recommendations regarding the organization of the HR Conference, the topics and quality of the speakers. Below is the feedback given:

What Went Well?

Overall Improvement: Participants felt the conference showed significant improvement over the previous year, with increased engagement. They regarded the sessions as informative and which met their expectations.

Concerns Raised and Corresponding Feedback

1. *Concern:* Insufficient time for each speaker, especially on topics requiring more depth (e.g., data protection and labour laws).

   Recommendation: Limit the number of speakers so as to allocate more time for them to cover the topics and allow for wider discussions.

2. *Concern:* HR Training Accessibility - while shop stewards receive thorough training through KUDHEIHA, HR professionals have fewer training opportunities.

   Feedback: Plans are being discussed to arrange for dedicated sessions for HR managers, potentially regionally if funding allows.

3. *Concern:* Integration with CPD Points - Participants suggested that IHRM members should be able to earn CPD points through this training.

   Feedback: Follow-up with IHRM is still ongoing albeit positive feedback not having been received from them in the past.

4. *Concern:* Handling gratuity issues for individual properties lacks a standardized approach.

   Feedback: The approach will be to handle gratuity concerns on a case-by-case basis to prevent confusion.

Recommendations

- Sharing resumes before sessions can help participants connect with facilitators' expertise.

- Topics like productivity should have ample preparation time to increase their practical relevance.

- Establishment of a WhatsApp group for HR Managers to facilitate fast and efficient communication among members.

THEME:

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7TH HUMAN RESOURCE CONFERENCE

KAHC & KUDHEIHA HUMAN RESOURCE CONFERENCE

MNARANI BEACH CLUB, KILIFI – 19 – 20 SEPTEMBER 2024